

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

|                                 |   |                 |
|---------------------------------|---|-----------------|
| HARRY SMITH, JR. and ROSLYN     | ) |                 |
| WOODARD SMITH, individually and | ) |                 |
| as Administrators of the ESTATE | ) |                 |
| OF HARRY SMITH, III,            | ) |                 |
|                                 | ) |                 |
| Plaintiffs,                     | ) |                 |
|                                 | ) | Civil Action    |
| v.                              | ) | No. 04-1254-GMS |
|                                 | ) |                 |
| CITY OF WILMINGTON, JOHN        | ) |                 |
| CIRITELLA, THOMAS DEMPSEY and   | ) |                 |
| MATTHEW KURTEN,                 | ) |                 |
|                                 | ) |                 |
| Defendants.                     | ) |                 |

Deposition of JOHNNY WHITEHEAD taken pursuant to notice at the United States District Court, District of Delaware, Conference Room 2204, 844 North King Street, Wilmington, Delaware, beginning at 8:35 a.m., on Tuesday, June 6, 2006, before Kurt A. Fetzer, Registered Diplomat Reporter and Notary Public.

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5 Q. So you initially thought that he had a knife?

6 A. A needle.

7 Q. A needle?

8 A. Yes.

Page 10

15 A. We were dispatched over the radio, yes.

16 Q. Would anyone who was working at that time as a  
17 police officer have heard that dispatch over the radio  
18 that they're looking for a patient having run away  
19 from the hospital?

20 A. Yes.

Page 17

6 Q. So is it fair to say that what you first saw

7 since you didn't see a weapon was what you thought was

8 an auto theft?

9 A. Yes.

Page 18

2 Q. And when you have done that, is it possible for  
3 you to hear what is occurring half a block away from  
4 you when all of the windows are up?

5 A. With the windows up, unless you have a  
6 jackhammer or a loud weapon, there's no way that you  
7 can actually hear with all of the windows up from a  
8 block away.

Page 19

16 Q. You did not have a shotgun inside the passenger  
17 compartment of that car on September 13, 2003,  
18 correct?

19 A. Yes. That's correct.

20 Q. Where was your shotgun?

21 A. The shotgun was in the trunk of the vehicle.

Page 20

24 Q. And then you are to put the shotgun where when

Page 21

1 you get in the patrol car?

2 A. You can put it in the -- there's a shotgun rack  
3 right behind your head and there are times when  
4 officers will just place it in the trunk because  
5 sometimes it sticks. It's difficult to place it in  
6 there, so they just put it in the trunk.

Page 22

11 Q. Would I as a person off the street never having  
12 driven a patrol car know where the button is on the  
13 center console to unlock the shotgun?

14 A. Probably not if you're not used to the police  
15 vehicles.

Page 29

4 Q. I want to ask you about the camera in this car.

5 A. Mm-hmm.

6 Q. Was that camera working?

7 A. I know we had problems with the audio. The  
8 video I believe was working earlier that week, but on  
9 that day and time I'm not sure if it was working or

Page 42

10 not.

12 Q. Now, after he drives off, what do you then do?

13 A. I was running after the vehicle.

14 Q. And how far did you run after the vehicle?

15 A. Maybe two blocks.

16 Q. How fast do you think the vehicle was going?

17 A. Maybe 40, 40 miles per hour.

Page 43

24 Q. Is it fair to say that within the first block

Page 44

1 of your foot chase of the vehicle that you were aware  
2 that Sergeant Donohue was now engaged in also pursuing  
3 the vehicle?

4 A. Yes. Yes.

5 Q. Why did you continue to do a foot chase if you  
6 have Sergeant Donohue driving a police vehicle?

7 A. Well, I knew that I struck him and maybe I was  
8 hoping that he would lose consciousness and crash and  
9 that way I can effect an arrest. That's what I was  
10 hoping, but the car just kept going southbound.

11 Q. So before you stopped your foot chase of the  
12 vehicle, did you see any police cars other than  
13 Sergeant Donohue's car involved?

14 A. Not that I recall, ma'am, not until I came back  
15 to the scene.

16 Q. When you stopped the foot chase, did you walk  
17 back to the scene on Washington Street or did you run

18 back?

19 A. Actually, there's a woman in a red Neon that  
20 drove us back.

21 Q. And were you talking on the radio during this  
22 drive back or listening?

23 A. I was listening.

24 Q. And what were you hearing?

Page 45

1 A. A lot of commotion, again sirens and at that  
2 time I can't really tell you exactly what they were  
3 saying, but I assume that they were giving directions  
4 with the pursuit, vehicle pursuit.

5 Q. Do you have any sense of how much time it took  
6 from the point at which, how much time elapsed from  
7 the point at which Harry got into the car and drove  
8 off, you engaged in the two block foot chase, a  
9 citizen in a red Neon was kind enough to drive you  
10 back to the scene, do you have any idea how much time  
11 elapsed?

12 A. It felt like an hour, but I know it wasn't an  
13 hour but it felt that long.

14 I would say a couple of minutes, maybe  
15 three, four minutes.

16 Q. And during that three-or-four-minute period did  
17 you make any statements at all on the radio to any  
18 other police officers?

19 A. I don't think so. I don't recall.

20 Q. Did you at any time get involved in the chase  
21 other than the two block foot chase we just discussed?

22 A. No.

23 Q. Did you write a report?

24 A. No.

Page 46

1 Q. Why?

2 A. Well, because it was turned over to detectives.

3 Q. Were you told not to write a report in this

4 case?

5 A. I was not told not to write a report.

6 Q. Is there any other case involving a serious

7 police matter where you have not written a report?

8 A. Usually in a case like this the detectives will

9 take over and they will get your statement, they will

10 put it in the report.

11 Q. How many shootings have you been involved with,

12 sir?

13 A. Two.

14 Q. When was the other shooting?

15 A. The other one was maybe a year prior to that

16 incident at Fifth and Rodney.

17 Q. So in 2002 you were involved in a shooting?

18 A. Yes.

Page 49

1 Q. Was he operating the vehicle in a wreckless

2 manner?

3 A. From what I have seen --

4 Q. From what you saw.

5 A. -- he was just driving straight down. He

6 wasn't running people off the road at that time. He

7 was just driving straight down from what I could see.

8 Q. And was there any point at which you joined the  
9 chase with the other police cars?

10 A. No.

11 Q. When he drove away were the emergency lights  
12 still on?

13 A. Yes.

Page 51

23 Q. Do you know whether or not your partner  
24 indicated on the radio that shots were fired by Harry

Page 52

1 Smith?

2 A. I don't think that was my partner. I believe  
3 that was Sergeant Donohue.

4 Q. So Sergeant Donohue got on the radio and said  
5 what based on your understanding?

6 A. I believe it was shots fired.

7 Q. And how did she know shots were fired?

8 A. She was responding, she was in the block when I  
9 fired my shot.

10 Q. So she saw you shoot Harry?

11 A. I don't know what she saw. I know that she was  
12 in the block. She was close enough to see. Whether  
13 or not she saw it or not, I don't know.

14 Q. So at no point did you or your partner say that  
15 Harry was shooting at you, correct?

16 A. I did not say he was shooting at me, no.

17 Q. And your partner didn't say that either,  
18 correct?

19           A.    I'm not sure what he said.  I know I didn't say  
20   that.